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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,065	07/13/2000	Norman Understein	2802-5	7218

23117 7590 03/14/2005
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EXAMINER

COLBERT, ELLA

ART UNIT PAPER NUMBER

3624

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/617,065

Applicant(s)

UNDERSTEIN, NORMAN

Examiner

Ella Colbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>16 June 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-9 are pending. Claims 1, 7, and 8 have been amended in this communication filed 12/1/04 entered as Response After Non-Final Action.
2. The IDS filed 06/16/04 has been reviewed and entered.
3. As a preliminary matter, Applicant is respectfully requested to note the Examiner prosecuting this application has changed. All future correspondence should be directed to Examiner Colbert, Art Unit 3624.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7, lines 6-12, page 3 and lines 1 and 2 page 4 recite "a system server running a server program, the at least one user computer and the system server being interconnected by a computer network, the system server determining whether the participant has established a consumer funding account by depositing funds in the consumer funding account, and if so, the system server reserving a portion of the consumer funding account ...". This claim limitation is unclear as to what the Applicant is trying to say and to claim. Some wording appears to be missing from the claim limitation. Claim 9 (b), page 5, lines 1-4 has a similar problem.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,122,625) Rosen in view of (US 6,260,024) Shkedy.

As per claim 1, Rosen teaches, A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising: (a) the participant establishing a consumer funding account by depositing funds in the consumer funding accounts the consumer funding account to be administered by the qualifying system (col. 7, lines 1-65); (b) the participant entering a transaction requiring a transfer of funds from the participant to another party (col. 39, lines 14-61 and figure 29); (c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system the participant or the

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other party (col. 20, lines 28-58 and col. 42, lines 9-44) and (d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter (col. 20, line 59 –col. 21, line 41). Rosen did not expressly disclose the system as a qualifying system. However, Rosen does disclose comparing the owner ID characteristics (interpreted as a qualifying system). Shkedy teaches a qualifying system in col. 6, lines 9-12 and lines 18-40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a qualifying system and to combine Rosen's system with Shkedy's qualifying system because such a combination would allow their systems to have a verification process with the seller entering into a legally binding contract with an intermediary.

As per claim 2, Rosen teaches, A method according to claim 1, wherein the transaction parameter is a required deposit (col. 27, lines 24-43, fig. 11, and fig. 12).

As per claim 3, Rosen teaches, A method according to claim 1, wherein the transaction parameter is an amount of funds required to complete the transaction (col. 42, lines 36-44 and fig. 30).

As per claim 4, Rosen teaches, A method according to claim 1, wherein step (c) is practiced by reserving a first portion of the consumer funding account corresponding to a required deposit and reserving a second portion of the consumer funding account corresponding to an amount of funds required to complete the transaction (col. 29, line 40-col. 30, line 18, fig. 15, and fig. 16).

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As per claim 5, Rosen teaches, A method according to claim 1, further comprising releasing the reserved portion of the consumer funding account when the transaction is completed (col. 41, line 40 –col. 42, line 67, fig. 29, and fig. 30A).

As per claim 6, Rosen failed to teach, A method according to claim 1, wherein step (c) is practiced by querying a network website server that maintains the consumer funding account. Shkedy teaches, A method according to claim 1, wherein step (c) is practiced by querying a network website server that maintains the consumer funding account (col. 1, line 64 –col. 2, line 67 and col. 5, lines 2-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to query a network website server that maintains the consumer funding account and to combine Rosen's funding an account with Shkedy's querying a network website server that maintains the consumer funding account because such a combination would allow Rosen and Shkedy's systems to have a website on the Internet that is accessible to consumers with the ability to browse (query) the different categories of products.

As per claim 7, Rosen teaches, A computer system for effecting qualifying of a participant over a global network in a transaction requiring a transfer of funds from the participant to an other party, the computer system comprising:

at least one user computer running a computer program that requests information according to a transaction inquiry input by the participant (col. 10, lines 18-42, col. 15, lines 1-8, and figure 3); and a system server running a server program, the at least one user computer and the system server being interconnected by a computer network, the system server determining whether the participant has established a consumer funding

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account by depositing funds in the consumer funding account, and if so, the system server reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the system server the participant or the other party wherein the system server administers the consumer funding account and wherein the system server qualifies the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter (col. 18, lines 21-55 and fig. 7). This independent claim is also rejected for the similar rationale as given above for claim 1.

As per claim 8, this independent claim is rejected for the similar rationale as given above for claims 1 and 7.

As per claim 9, this independent claim is rejected for the similar rationale as given above for claims 1 and 7.

Response to Arguments

9. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Oncken (US 4,985,833) disclosed funding accounts.

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Inquiries

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday, 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E. Colbert

March 5, 2005